

Division of Securities
Utah Department of Commerce
160 East 300 South
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

**IN THE MATTER OF THE LICENSES
OF :**

DAVID A. SETTLE, CRD #4245687

Respondent.

PETITION TO BAR LICENSEE

Docket no. SD-05-0066

Pursuant to the authority of Utah Code Ann. § 61-1-6, the Utah Division of Securities, ("Division"), hereby petitions the Director of the Division ("Director") to enter an Order, subject to the approval of a majority of the Securities Advisory Board, barring the license of David A. Settle, CRD #4245687 ("Respondent"). In support of this petition, the Division alleges:

STATEMENT OF FACTS

1. Respondent was licensed as a broker-dealer agent in the State of Utah with Ameriprise Financial Services, Inc. from September 5, 2000 to October 16, 2000 and with Waddell & Reed, Inc. ("Waddell & Reed") from November 15, 2000 until his license was terminated on October 4, 2004. Respondent was also licensed as an

investment adviser representative with Waddell & Reed from December 8, 2000 until his license was terminated on October 4, 2004.

2. Upon information and belief, Respondent presently resides at 784 East 500 North, Nephi, Utah.

3. Respondent has taken and passed the Series 7, General Representative Licensing Examination; and the Series 66, Combined State Law Examination.

4. On September 8, 2004, Waddell & Reed discharged Respondent for admitting to making unauthorized redemptions from two clients' mutual fund accounts.

5. The Form U5 Amendment in Respondent's Central Registration Depository ("CRD") record also states, "on March 16, 2005, the firm became aware that [Respondent] admitted to making an unauthorized withdrawal from a client's variable annuity policy."

5. On September 8, 2004, Respondent signed a letter admitting to forging withdrawals on two clients' ("Client #1" and "Client #2") accounts and having the checks sent to addresses other than those of the clients so Respondent would receive the redemption checks.

6. Copies of Waddell & Reed 'Distribution/Withdrawal' forms and account descriptions for Client #1's account evidence approximately \$58,000 was withdrawn from her account in periodic redemptions between June 21, 2001 and May 22, 2002. The 'Distribution/Withdrawal' forms further evidence the redemption checks were sent to and made payable to Respondent.

7. The redemptions from Client #1's account were as follows: \$5,500 on June 21, 2001; \$2,010 on July 18, 2001; \$2,010 on August 6, 2001; \$2,010 on August 16, 2001;

\$3,000 on September 4, 2001; \$2,500 on September 18, 2001; \$2,500 on October 1 or 3, 2001; \$3,000 on October 16, 2001; \$4,779.80 on November 2, 2001; \$3,000 on November 16, 2001; \$2,000 on December 3, 2001; \$3,000 on December 17, 2001; \$2,500 on January 2, 2002; \$2,500 on January 16, 2002; \$2,500 on February 5, 2002; \$1,800 on February 19, 2002; \$2,500 on March 1, 2002; \$2,500 on March 18, 2002; \$2,500 on April 9, 2002; \$998.51 on April 29, 2002; \$2,495.78 on May 7, 2002; and \$2,502.05 on May 22, 2002.

8. On November 12, 2004, Lora D. Ebert, attorney-in-fact for Client #2, signed an Affidavit stating that on February 6, 2003, unauthorized redemptions of \$10,276.94, and \$2,711.15 were made from one of Client #2's accounts.

9. The Affidavit of Ebert further states on February 12, 2003, unauthorized redemptions of \$7,579.20 and \$10,036.53 were made from two of Client #2's accounts.

10. Copies of Waddell & Reed's 'Account Service Request' forms evidence the February 2003 unauthorized redemptions from Client #2's accounts were made payable to and sent to Respondent's wife.

11. On June 13, 2005, after the NASD initiated a regulatory action, case number C3A050028, against Respondent based on allegations Respondent violated NASD Conduct Rules 2330 and 2110, Respondent, without admitting or denying the allegations, entered into an Acceptance, Waiver and Consent ("AWC").

12. Pursuant to the AWC, Respondent consented to the entry of the following findings:

Between June 1, 2001 and May 31, 2002, Respondent obtained approximately \$58,000.00 from the securities account of MS [Client #1] by causing unauthorized withdrawals from the account and used the funds for his personal benefit. On two occasions in February 2003, Respondent

obtained a total of approximately \$30,000.00 from the securities accounts of DS and JS [Client #2] by causing unauthorized withdrawals from the accounts and used the funds for his personal benefit. These acts constituted the improper use of customer funds. Each instance of an unauthorized withdrawal and the personal use of the withdrawn funds constituted a separate and distinct violation of NASD Conduct Rule 2330. Further, each such instance constituted conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and a separate and distinct violation of NASD Conduct Rule 2110 by Respondent.

13. Pursuant to the AWC, Respondent also consented to a bar from association with any NASD member firm in any capacity.

CAUSES OF ACTION

COUNT I

(Securities Fraud under § 61-1-1(3) of the Utah Uniform Securities Act (“Act”))

14. Respondent violated Section 61-1-1(3) of the Act by making unauthorized withdrawals from client accounts and using the funds for his own purposes, which operated as a fraud or deceit upon his clients.

COUNT II

(Dishonest and Unethical Business Practices under § 61-1-6(2)(g) of the Act)

15. Respondent engaged in dishonest and unethical conduct by fraudulently making unauthorized withdrawals from customer accounts and using the money for his own purposes, in violation of Section 61-1-6(2)(g) and Rule 164-6-1g(D)(22) (made applicable to agents by Rule 164-6-1g(D)(7)).

COUNT III

(Willful Violation under §61-1-6(2)(b) of the Act)

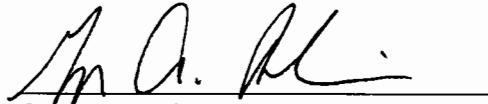
16. Respondent’s conduct as set forth in this Petition constitutes willful violations of the Act and rules promulgated pursuant to the Act in violation of Section 61-1-6(2)(b).

REQUEST FOR RELIEF

The Division requests that, pursuant to §61-1-6 of the Act and subject to the approval of the Securities Advisory Board, the Director enter an order barring Respondent from association with any broker-dealer or investment adviser licensed in this state.

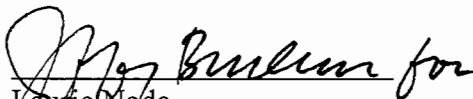
DATED this 30 day of September, 2005.

UTAH DIVISION OF SECURITIES



George Robison
Director of Licensing

Approved:



Laurie Noda
Assistant Attorney General

Division of Securities
Utah Department of Commerce
160 East 300 South
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NOTICE OF AGENCY ACTION

Docket no. SD-05-0066

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences a formal adjudicative proceeding against you as of the date of the mailing of the Petition to Bar Licensee. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §63-46b-3 and §63-46b-6 through 11. The facts on which this action is based are set forth in the foregoing Petition to Bar Licensee.

Within thirty (30) days of the date of this notice, you are required to file a written response with the Division. The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Petition to Bar Licensee. After your response is filed, a hearing will be set and a date and time agreed upon by the parties.

If you fail to file a written response, as set forth herein, or fail to appear at the hearing, the Division of Securities will hold you in default, and a fine will be imposed against you in accordance with Utah Code Ann. §63-46b-11, without the necessity of providing you with any further notice.


The presiding officer in this case is David Preece, Director, Division of Securities, 160 East 300 South, P.O. Box 146760, Salt Lake City, Utah 84114-6760, telephone (801) 530-6600. The Administrative Law Judge will be J. Steven Eklund, Utah Department of

Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, Utah 84114-6701, telephone (801) 530-6648. At such hearing, the Division will be represented by the Utah Attorney General's Office, 160 East 300 South, P.O. Box 140872, Salt Lake City, Utah 84114-0872, telephone (801) 366-0310. At the hearing, you may appear and be heard and present evidence on your behalf.

You may attempt to negotiate a settlement of the matter without filing an answer or proceeding to a hearing. Should you so desire, please contact the Utah Attorney General's Office. Questions regarding the Petition to Bar Licensee and Notice of Agency Action should be direct to Laurie Noda, Assistant Attorney General, 160 E. 300 South, P.O. Box 140872, Salt Lake City, Utah 84114-0872, telephone (801) 366-0310.

DATED this 3rd day of October, 2005.

UTAH DIVISION OF SECURITIES


A handwritten signature in black ink, appearing to read "Jason F. Perry", is written over a horizontal line.


JASON PERRY
Acting Director, Division of Securities
Utah Department of Commerce

CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of October 2005, I mailed, by certified mail, a true and correct copy of the forgoing Petition To Bar Licensee and Notice of Agency Action to:

David A Settle
784 East 500 North
Nephi UT 84604

CERTIFIED MAIL: 7005 1160 0003 7034 0340



Executive Secretary